

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

<b>United States District Court</b>		District <b>Massachusetts</b>
Name <b>Manuel Areche</b>	Prisoner No. <b>W-63443 26</b>	Case No. <b>05-11121 MEL</b>
Place of Confinement <b>MCI Shirley, Medium 1 Harvard Road, P.O. Box 1218 Shirley, MA 01464-1218</b>		
Name of Petitioner (include name under which convicted) <b>Manuel Areche</b>		Name of Respondent (authorized person having custody of petitioner) <b>V. Michael Thompson</b>
The Attorney General of the State of: <b>Massachusetts</b> <b>05-11121 MEL</b>		

PETITION

- Name and location of court which entered the judgment of conviction under attack Hampden  
County Superior Court, Springfield, Massachusetts
- Date of judgment of conviction October 20, 1997
- Length of sentence 10 yr. to 10 yr. & 1 day; 2½ yr. to 3 yr. From & After.
- Nature of offense involved (all counts) 96-2727, trafficking a controlled substance  
G.L. c. 94C, 32E(b)(4) and school zone sales G.L. c. 94C, 32J.  
96-2728.
- What was your plea? (Check one)
 

(a) Not guilty	<input type="checkbox"/>
(b) Guilty	<input checked="" type="checkbox"/>
(c) Nolo contendere	<input type="checkbox"/>

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

\_\_\_\_\_

\_\_\_\_\_
- If you pleaded not guilty, what kind of trial did you have? (Check one)
 

(a) Jury	<input type="checkbox"/>
(b) Judge only	<input type="checkbox"/>
- Did you testify at the trial?  
Yes ☐ No ☐
- Did you appeal from the judgment of conviction?  
Yes ☐ No ☐

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9. If you did appeal, answer the following:

- (a) Name of court \_\_\_\_\_
- (b) Result \_\_\_\_\_
- (c) Date of result and citation, if known \_\_\_\_\_
- (d) Grounds raised \_\_\_\_\_

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court \_\_\_\_\_
- (2) Result \_\_\_\_\_
- (3) Date of result and citation, if known \_\_\_\_\_
- (4) Grounds raised \_\_\_\_\_

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court \_\_\_\_\_
- (2) Result \_\_\_\_\_
- (3) Date of result and citation, if known \_\_\_\_\_
- (4) Grounds raised \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court Hampden County Superior Court.
- (2) Nature of proceeding Rule 30 on school zone only.
- (3) Grounds raised Ineffectiveness of counsel, violation of due process,  
violation of plea agreement.

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- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☒

(5) Result Denied.

(6) Date of result June 4, 2003.

- (b) As to any second petition, application or motion give the same information:

(1) Name of court Mass. Appeals Court.

(2) Nature of proceeding Appeal.

(3) Grounds raised Same as court below.

- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☒

(5) Result Denied.

(6) Date of result March 11, 2005.

- (c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐

(2) Second petition, etc. Yes ☐ No ☐

- (d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Counsel was ineffective for not pursuing the plea

agreement, and telling me to shut up when I wanted to address  
the court.

Supporting FACTS (state *briefly* without citing cases or law) I rely upon the brief

filed in the Massachusetts Supreme Court attached.

B. Ground two: Due process was denied.

Supporting FACTS (state *briefly* without citing cases or law): Same as above.

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C. Ground three: Violation of plea agreement.Supporting FACTS (state *briefly* without citing cases or law): Same as above.

D. Ground four

Supporting FACTS (state *briefly* without citing cases or law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing

(b) At arraignment and plea Atty. Bonavita, and Atty. Ruben.

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(c) At trial \_\_\_\_\_

(d) At sentencing Atty. Ruben(e) On appeal pro se(f) In any post-conviction proceeding pro se(g) On appeal from any adverse ruling in a post-conviction proceeding pro se

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

5-18-2005  
(date)

Manuel Arredol

Signature of Petitioner